

§ 4.821

such other departments or agencies. All parties to any proceedings consolidated subsequently to service of the notice of hearing or opportunity for hearing shall be promptly served with notice of such consolidation.

§ 4.821 Motions.

Motions and petitions shall state the relief sought, the basis for relief and the authority relied upon. If made before or after the hearing itself, these matters shall be in writing. If made at the hearing, they may be stated orally; but the administrative law judge may require that they be reduced to writing and filed and served on all parties. Within 8 days after a written motion or petition is served, any party may file a response to a motion or petition. An immediate oral response may be made to an oral motion. Oral argument on motions will be at the discretion of the administrative law judge.

§ 4.822 Disposition of motions.

The administrative law judge may not grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided, however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately.

§ 4.823 Interlocutory appeals.

Except as provided in § 4.809(e), a ruling of the administrative law judge may not be appealed to the Director, Office of Hearings and Appeals, prior to consideration of the entire proceeding by the administrative law judge unless permission is first obtained from the Director, Office of Hearings and Appeals, and the administrative law judge has certified the interlocutory ruling on the record or abused his discretion in refusing a request to so certify. Permission will not be granted except upon a showing that the ruling complained of involves a controlling question of law and that an immediate appeal therefrom may materially advance the final decision. An interlocutory appeal shall not operate to suspend the hearing unless otherwise or-

43 CFR Subtitle A (10-1-10 Edition)

dered by the Director, Office of Hearings and Appeals. If an appeal is allowed, any party may file a brief within such period as the Director, Office of Hearings and Appeals, directs. Upon affirmance, reversal, or modification of the administrative law judge's interlocutory ruling or order, by the Director, Office of Hearings and Appeals, the case will be remanded promptly to the administrative law judge for further proceedings.

§ 4.824 Exhibits.

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing, if the administrative law judge so directs. Proposed exhibits not so exchanged in accordance with the administrative law judge's order may be denied admission as evidence. The authenticity of all exhibits submitted prior to the hearing, under direction of the administrative law judge, will be deemed admitted unless written objection thereto is filed and served on all parties, or unless good cause is shown for failure to file such written objection.

§ 4.825 Admissions as to facts and documents.

Not later than 15 days prior to the date of the hearing any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in, and exhibited with, the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within a period of 10 days, the party to whom the request is directed serves upon the requesting party a statement either (a) denying specifically the matters as to which an admission is requested, or (b) setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

§ 4.826 Discovery.

(a) *Methods.* Parties may obtain discovery as provided in these rules by depositions, written interrogatories, production of documents, or other